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ERINN DAVIS and ARTHELLE PORTER

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ERINN DAVIS, an individual, and  
ARTHELLE PORTER, an individual,

Case No.

Plaintiff,

COMPLAINT

v.

DEMAND FOR JURY TRIAL

ELECTRONIC DOCUMENT  
PROCESSING, INC., dba EDP LEGAL  
SERVICES, INC., a California  
corporation; JACOBBI B. WILLIAMS,  
individually and in his official  
capacity; and DOES 1 through 10,  
inclusive,

15 United States Code § 1692 *et seq.*  
California Civil Code § 1788 *et seq.*  
California Bus. & Prof. Code § 17200

Defendants.

Plaintiffs, ERINN DAVIS and ARTHELLE PORTER, based on information and belief and investigation of counsel, except for those allegations which pertain to the named plaintiffs or their attorney (which are alleged on personal knowledge), hereby make the following allegations:

INTRODUCTION

1. The Defendants in this case are process servers who, in an attempt to collect a debt, filed false proofs of service in a state court action.

2. This is an action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA") and the Rosenthal Fair Debt Collection Practices Act,

California Civil Code § 1788 *et seq.* (“RFDCPA”) for actual damages, statutory damages, attorney fees and costs brought by an individual consumer against process servers who engage in “sewer service.”<sup>1</sup>

3. While faithful process servers are exempted from the definition of “debt collector” under the FDCPA when they are in fact serving or attempting to serve legal process, when someone who would otherwise qualify for the exemption goes beyond being merely being a messenger in serving process and engages in prohibited abusive or harassing activities to force an individual to repay a debt, the exemption no longer applies and the process server is subject to FDCPA liability.<sup>2</sup>

4. Therefore, the Defendants in this case - process servers that failed to serve court process entrusted to them and instead provide a perjured *Proof of Service of Summons* - are removed from the FDCPA’s process server exemption.<sup>3</sup>

### JURISDICTION

5. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1337, and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

6. This action arises out of Defendants’ violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (FDCPA).

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<sup>1</sup>

As explained in *Richardson v. Alliance Tire & Rubber Co.*, 158 F.R.D. 475 (D. Kan. 1994), the term “sewer service” originated in jurisdictions in which process could be served by professional process servers rather than public officials, and derived from those process servers [who] once followed a practice of disposing of process given to them to serve (e.g., by throwing it down a sewer) and then falsely returning that they had duly served it.” *Id.* at 480 n.5 (quoting 1 Robert C. Casad, *Jurisdiction in Civil Actions* § 3.01[7][d] (2d ed. 1991)).

<sup>2</sup>

*Sykes v. Mel Harris & Assocs., LLC*, 757 F. Supp. 2d 413, 423 (S.D.N.Y. 2010), *citing Flamm v. Sarner & Assocs., P.C.*, 2002 U.S. Dist. LEXIS 22255, 2002 WL 31618443, \*5 (E.D. Pa. Nov. 2002)

<sup>3</sup>

*Freeman v. ABC Legal Services, Inc.*, 827 F. Supp. 2d 1065, 1074 (N.D. Cal. 2011)

1 VENUE

2 7. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b), in  
3 that a substantial part of the events or omissions giving rise to the claim occurred  
4 in this judicial district. Venue is also proper in this judicial district pursuant to 15  
5 U.S.C. § 1692k(d), in that Defendants transact business in this judicial district and  
6 the violations of the FDCPA complained of occurred in this judicial district.

7 INTRADISTRICT ASSIGNMENT

8 8. This lawsuit should be assigned to the San Francisco/Oakland Division of  
9 this Court because a substantial part of the events or omissions which gave rise to  
10 this lawsuit occurred in San Francisco County.

11 PARTIES

12 9. Plaintiff ERINN DAVIS (“DAVIS”) is a natural person residing in Alameda  
13 County, California. Plaintiff is a “consumer” within the meaning of 15 U.S.C. §  
14 1692a(3) and a “debtor” within the meaning of Cal. Civil Code § 1788.2(h).

15 10. Plaintiff ARTHELLE PORTER (“PORTER”) is a natural person residing  
16 in Solano County, California. Plaintiff is a “consumer” within the meaning of 15  
17 U.S.C. § 1692a(3) and a “debtor” within the meaning of Cal. Civil Code § 1788.2(h).

18 11. Defendant ELECTRONIC DOCUMENT PROCESSING, INC., dba EDP  
19 LEGAL SERVICES, INC. (“EDP”) is a California corporation engaged in the  
20 business of composing and selling forms, documents and other collection media  
21 used or intended to be used for debt collection. EDP’s principal place of business is  
22 located at 16700 Valley View Avenue, Suite 440, La Mirada, California 90638. EDP  
23 may be served at the address of its Agent for Service of Process which plaintiff is  
24 informed and believes is: Electronic Document Processing, Inc., c/o William  
25 Mitchell, Agent for Service of Process, 9160 Irvine Center Drive, Suite 200, Irvine,  
26 California 92618-4683. Plaintiffs are informed, believe and thereon allege, that  
27 EDP is a corporation subject to the registration and other provisions found in Cal.  
28 Bus. & Prof. Code §§ 22350-22360. Plaintiffs are informed, believe and thereon

1 allege, that prior to manufacturing the *Proofs of Service of Summons* giving rise to  
 2 this action (see Exhibits 1 and 2), EDP did not file or maintain a verified certificate  
 3 of registration as a process server with the county clerk of the county in which EDP  
 4 has its principal place of business, as required by Cal. Bus. & Prof. Code § 22350.  
 5 EDP is regularly engaged in the business of indirectly collecting consumer debts  
 6 and assisting other debt collectors to file and maintain civil debt collection lawsuits  
 7 and to obtain default judgments in those cases by utilizing the U.S. Mail, telephone  
 8 and internet. EDP regularly collects, directly or indirectly, consumer debts alleged  
 9 to be due to another via U.S. Mail, telephone, internet, and civil debt collection  
 10 lawsuits. EDP is a “debt collector” within the meaning of 15 U.S.C. § 1692a(6) and  
 11 Cal. Civil Code § 1788.2(c). EDP is not subject to the exception of 15 U.S.C. §  
 12 1692a(6)(D).

13 12. Defendant JACOBBI B. WILLIAMS (“WILLIAMS”) is a natural person  
 14 and is or was an employee and/or agent of EDP at all relevant times. WILLIAMS is  
 15 in the business of composing and selling of forms, documents and other collection  
 16 media used or intended to be used for debt collection. Plaintiffs are informed,  
 17 believe and thereon allege that WILLIAMS is an individual subject to the  
 18 registration and other provisions found in Cal. Bus. & Prof. Code §§ 22350-22360.  
 19 WILLIAMS may be served at his current residence address which Plaintiffs are  
 20 informed, believe and thereon allege is 1445 Eddy Street, Apartment 1, San  
 21 Francisco, California 94115. WILLIAMS is regularly engaged in the business of  
 22 indirectly collecting consumer debts by assisting the other debt collectors to file  
 23 and maintain civil debt collection lawsuits and to obtain default judgments in those  
 24 cases by utilizing the U.S. Mail, telephone and internet. WILLIAMS regularly  
 25 collects, directly or indirectly, consumer debts alleged to be due to another via U.S.  
 26 Mail, telephone, internet, and civil debt collection lawsuits. WILLIAMS is a “debt  
 27 collector” within the meaning of 15 U.S.C. § 1692a(6) and Cal. Civil Code §  
 28 1788.2(c). WILLIAMS is not subject to the exception of 15 U.S.C. § 1692a(6)(D).

1           13. The true names and capacities, whether individual, corporate, associate  
2 or otherwise, of Defendants DOES 1 through 10, inclusive, and each of them, are  
3 unknown to Plaintiff at this time, and Plaintiff therefore sues said Defendants by  
4 such fictitious names. Plaintiffs are informed, believe and thereon allege, that at all  
5 relevant times alleged in this Complaint, Defendants DOES 1 through 10, inclusive,  
6 are natural persons, limited liability companies, corporations or business entities  
7 of unknown form that have or are doing business in the state of California.  
8 Plaintiffs will seek leave of the Court to replace the fictitious names of these Doe  
9 Defendants with their true names when they are discovered by Plaintiffs.

10           14. At all relevant times alleged in this Complaint, Defendants, and each of  
11 them, were regularly engaged in the business of collecting consumer debts  
12 throughout the state of California, including San Francisco County, by assisting the  
13 other debt collectors in filing and maintaining civil debt collection lawsuits and in  
14 obtaining default judgments in those cases by utilizing the U.S. Mail, telephone  
15 and internet.

16           15. Plaintiffs are informed, believe and thereon allege, that each and all of  
17 the aforementioned Defendants are responsible in some manner, either by act or  
18 omission, strict liability, fraud, deceit, fraudulent concealment, negligence,  
19 *respondeat superior*, breach of contract or otherwise, for the occurrences herein  
20 alleged, and that Plaintiffs' injuries, as herein alleged, were proximately caused by  
21 the conduct of Defendants.

22           16. Plaintiffs are informed, believe and thereon allege, that at all relevant  
23 times alleged in this Complaint, each of the Defendants sued herein was the agent,  
24 servant, employer, joint venturer, partner, division, owner, subsidiary, alias,  
25 assignee and/or alter-ego of each of the remaining Defendants and was at all times  
26 acting within the purpose and scope of such agency, servitude, joint venture,  
27 division, ownership, subsidiary, alias, alter-ego, partnership or employment and  
28 with the authority, consent, approval and ratification of each remaining Defendant.

1 17. Plaintiffs are informed, believe and thereon allege, that at all relevant  
2 times alleged in this Complaint, Defendants, and each of them, combined their  
3 property, skill or knowledge to carry out a single business undertaking and agreed  
4 to share the control, profits and losses.

5 18. Plaintiffs are informed, believe and thereon allege, that at all relevant  
6 times alleged in this Complaint, each Defendant was the co-conspirator, agent,  
7 servant, employee, assignee and/or joint venturer of each of the other Defendants  
8 and was acting within the course and scope of said conspiracy, agency,  
9 employment, assignment and/or joint venture and with the permission and  
10 consent of each of the other Defendants.

11 19. Whenever reference is made in this Complaint to any act of any corporate  
12 or other business Defendant, that reference shall mean that the corporation or  
13 other business did the acts alleged in this Complaint through its officers, directors,  
14 employees, agents and/or representatives while they were acting within the actual  
15 or ostensible scope of their authority.

16 20. At all relevant times alleged in this Complaint, each Defendant has  
17 committed the acts, caused others to commit the acts, ratified the commission of  
18 the acts, or permitted others to commit the acts alleged in this Complaint and has  
19 made, caused, ratified, or permitted others to make, the untrue or misleading  
20 statements alleged in this Complaint. Whenever reference is made in this  
21 Complaint to any act of Defendants, such allegation shall mean that each  
22 Defendant acted individually and jointly with the other Defendants.

### 23 JOINT VENTURE

24 21. Plaintiffs are informed, believe and thereon allege, that at all relevant  
25 times alleged in this Complaint, Defendants, and each of them, combined their  
26 property, skill or knowledge to carry out a single business undertaking and agreed  
27 to share the control, profits and losses.

28 22. Specifically, Plaintiffs are informed, believe and thereon allege, that:

1           a. EDP is a California corporation engaged in the businesses of  
2 manufacturing and selling process server returns and other debt collection  
3 related activities in the State of California. Through the use of the U.S. Mail,  
4 telephone and the internet, EDP advertises and markets process service and  
5 other legal support services to attorneys, law firms, debt collectors, government  
6 agencies and the general public. EDP provides the telephones, facsimile  
7 machines, computers, software and other equipment, support staff and facilities  
8 used by WILLIAMS and the enterprise for their process server return  
9 manufacturing activities. EDP composes the process server returns sold by the  
10 enterprise using its own computer systems and the data which is input into its  
11 computer systems via its websites (*e.g.* edplegal.com and onetouchlegal.com) by  
12 its customers, like Patenaude & Felix, and its process server agents, like  
13 WILLIAMS. EDP also acts as the public face for the enterprise through its  
14 advertising, marketing, customer support and customer billing for the  
15 enterprise's services. EDP provided WILLIAMS and the enterprise with its  
16 address and the marketing, customer billing, computers and other support  
17 infrastructure that was needed to manufacture and sell the *Proof of Service of*  
18 *Summons* to Patenaude & Felix for use in the state court lawsuit against  
19 Plaintiffs. EDP provides advertising, marketing, address and its support staff,  
20 equipment and facilities to the enterprise and in return receives a share of the  
21 profits realized by the enterprise from their process server return manufacturing  
22 activities. Notwithstanding its use of EDP's address and telephone number on  
23 the process server returns manufactured and sold by the enterprise, Plaintiffs  
24 are informed, believe and thereon allege that EDP will not accept service of  
25 process for WILLIAMS or any of its other process server agents, thereby acting  
26 as a litigation shield should one of its process server agents be sued for their  
27 unlawful activities.  
28



1           b. WILLIAMS is registered as a process server in Alameda County and was  
2 registered with process server number 1197 from October 26, 2010 until October  
3 25, 2012. WILLIAMS lent his name, facsimile signature and the apparent  
4 legitimacy of his process server registration number to the enterprise for use on  
5 the *Proofs of Service of Summons* (Exhibits 1 & 2) that were manufactured and  
6 sold to Patenaude & Felix and used in the state court lawsuit against Plaintiffs.  
7 Without WILLIAMS and others holding themselves out as registered process  
8 servers and the apparent legitimacy of their registration numbers, EDP could  
9 not market and sell process server returns like the *Proofs of Service of Summons*  
10 that were manufactured and sold to Patenaude & Felix for use in the state court  
11 case against Plaintiffs. WILLIAMS and other alleged registered process servers  
12 provide the facial legitimacy of their purported process server registrations to  
13 the enterprise and in return receive a share of the profits realized by the  
14 enterprise from their process server return manufacturing activities.

15           23. Plaintiffs are informed, believe and thereon allege, that process server  
16 services are an integral part of EDP's business and that EDP could not offer such  
17 services without its process server agents, like WILLIAMS.

18                           AIDING AND ABETTING

19           24. Plaintiffs are informed, believe and thereon allege, that at all relevant  
20 times alleged in this Complaint, EDP aided and abetted the fraud, perjury, breach  
21 of official duty and other wrongful acts committed by WILLIAMS.

22           25. Plaintiffs are informed, believe and thereon allege, that EDP marketed  
23 its *Proof of Service of Summons* product to law firms, debt collectors, government  
24 agencies and the general public, including Patenaude & Felix, as a legitimate and  
25 lawful service. Plaintiffs are informed, believe and thereon allege, that EDP  
26 represented or implied in its advertising, marketing and other materials that EDP  
27 would ensure that the official court process entrusted to it would be duly, faithfully  
28 and lawfully served and delivered to lawsuit defendants, including the Plaintiffs.



1           26. Plaintiffs are informed, believe and thereon allege, that instead of duly,  
2 faithfully and lawfully delivering and serving the official court process entrusted to  
3 it, EDP enlisted WILLIAMS and other process server agents to manufacture  
4 process server returns - like the *Proofs of Service of Summons* that were sold to  
5 Patenaude & Felix and used in the state court lawsuit against the Plaintiffs in this  
6 case.

7           27. Plaintiffs are informed, believe and thereon allege, that EDP willingly,  
8 knowingly and intentionally fails to place its name and process server registration  
9 number (if it has one) on the process server returns manufactured by WILLIAMS  
10 and other process servers with the intent to misrepresent the true nature of the  
11 services being provided by EDP and its process servers, like WILLIAMS, and the  
12 joint responsibility of EDP and WILLIAMS, pursuant to Cal. Bus. & Prof. Code §  
13 22356. Moreover, Plaintiffs are informed, believe and thereon allege, that EDP  
14 willingly, knowingly and intentionally withheld its name and process server  
15 registration number from the *Proofs of Service of Summons* that were sold to  
16 Patenaude & Felix and used in the state court lawsuit against the Plaintiffs in this  
17 case (a violation of Cal. Bus. & Prof. Code § 22356.5(a)) with the intent to deceive  
18 the Plaintiffs and the Superior Court of California. By providing process servers,  
19 like WILLIAMS, with its business address and telephone number for use on the  
20 process server returns that the enterprise manufactures and sells (like the *Proofs of*  
21 *Service of Summons* that were sold to Patenaude & Felix, and used in the state  
22 court lawsuit against the Plaintiffs in this case), and by intentionally withholding  
23 its name and process server registration number (if it has one), EDP aided and  
24 abetted the fraud, perjury, breach of official duty and other wrongful acts  
25 committed by WILLIAMS against the Plaintiffs.

26           28. Plaintiffs are informed, believe and thereon allege, that EDP authorizes,  
27 uses, and ratifies the use of its address and telephone number on process server  
28 returns manufactured and sold by the enterprise with the intent to shield its

1 process server agents, like WILLIAMS, from service of process should they be sued  
2 for their unlawful activities. Notwithstanding its use of EDP's address and  
3 telephone number on the process server returns manufactured and sold by the  
4 enterprise, plaintiffs are informed and believe and thereon allege that EDP will not  
5 accept service of process for WILLIAMS or any of its other process server agents  
6 when service of process is attempted at the address provided on their *Proof of*  
7 *Service of Summons* documents.

8 29. Plaintiffs are informed, believe and thereon allege, that EDP maintains  
9 digital facsimile signatures of its process server agents, including WILLIAMS,  
10 within its computer systems. EDP uses these digital facsimile signatures in its  
11 process server return manufacturing activities. By its use of digital facsimile  
12 signatures, EDP is able to efficiently manufacture process server returns which  
13 facially appear to have been signed by its process server agents, but which were  
14 never actually signed under penalty of perjury as required by California law.

15 30. Plaintiffs are informed, believe and thereon allege, that at all relevant  
16 times alleged in this Complaint, EDP knew that fraud, perjury, breach of official  
17 duty and other wrongful acts were being committed by WILLIAMS against the  
18 Plaintiffs and others. In fact, EDP gave substantial assistance and encouragement  
19 to WILLIAMS by producing fully completed *Proof of Service of Summons*  
20 documents which contain WILLIAMS' facsimile signature and EDP's address and  
21 telephone number instead of WILLIAMS' address and telephone number. Plaintiffs  
22 are informed, believe and thereon allege, that neither WILLIAMS or any of EDP's  
23 other process server agents actually sign the completed *Proof of Service of*  
24 *Summons* documents sold by EDP.

25 31. Plaintiffs are informed, believe and thereon allege, that at all relevant  
26 times alleged in this Complaint, EDP effectively controlled its process server  
27 agents, including WILLIAMS, by *inter alia*:  
28

1 a. choosing which assignments each process server agent will receive (i.e.,  
2 controlling what work must be performed by a specific individual);

3 b. requiring personal performance of the tasks assigned to its process  
4 server agents (i.e., controlling what work must be performed by a specific  
5 individual);

6 c. forbidding or severely restricting its process server agents' ability to  
7 substitute or assign their performance of the assigned tasks (i.e., controlling what  
8 work must be performed by a specific individual);

9 d. requiring the use of GPS tracking devices for its process server agents  
10 (i.e., controlling what tools and equipment must be used to perform the assigned  
11 tasks);

12 e. requiring detailed real-time reporting to EDP of all service attempts  
13 made by its process server agents (i.e., controlling the manner in which the  
14 assigned tasks are performed and requiring regular written reports);

15 f. requiring the use of EDP's computer systems and software for the  
16 performance of its process server agents' assigned duties (i.e., controlling what  
17 tools and equipment must be used to perform the assigned tasks and the manner  
18 in which the assigned tasks are performed); and

19 g. requiring its process server agents to maintain specified minimum  
20 automobile liability insurance and professional liability insurance coverage, that  
21 EDP be named as an additional insured in all such insurance policies, and  
22 requiring immediate notification from its process server agents should said  
23 insurance policies be canceled or not renewed (i.e., controlling business practices  
24 and decisions).

25 32. Through the use of the GPS tracking devices all EDP process server  
26 agents are required to carry and the real-time reporting and tracking data that  
27 these devices provide, EDP is able to track in real-time the movements of all its  
28 process server agents.

33. EDP's conduct was a substantial factor in causing the harm to Plaintiffs. EDP should be held responsible as an aider and abettor for the fraud, breach of official duty and other wrongful acts committed by WILLIAMS against the Plaintiffs.

#### RATIFICATION

34. Plaintiffs are informed, believe and thereon allege, that EDP is responsible for the harm caused by WILLIAMS' unlawful conduct because EDP approved WILLIAMS' unlawful conduct after it occurred.

35. Plaintiffs are informed, believe and thereon allege, that WILLIAMS intended to act on behalf of EDP when he provided EDP with a digital facsimile of his signature with the knowledge that EDP would use his digital signature on process server returns.

36. Plaintiffs are informed, believe and thereon allege, that WILLIAMS intended to act on behalf of EDP when he accepted the assignment from EDP to serve the state court process on Plaintiffs.

37. Plaintiffs are informed, believe and thereon allege, that WILLIAMS intended to act on behalf of EDP when he subsequently failed to serve the state court process on Plaintiffs that had been entrusted to him and instead provided false and fraudulent information to EDP regarding the completion of his assignment.

38. Plaintiffs are informed, believe and thereon allege, that EDP learned of WILLIAMS' failure to faithfully serve the state court process that EDP had entrusted to him after it occurred.

39. Plaintiffs are informed, believe and thereon allege, that EDP approved WILLIAMS' unlawful conduct by voluntarily keeping the benefits of WILLIAMS' unlawful conduct after learning of the conduct.

40. Plaintiffs are informed, believe and thereon allege, that EDP approved

1 WILLIAMS' unlawful conduct as alleged in this case by continuing to employ  
2 WILLIAMS and continuing to assign process server assignments to WILLIAMS  
3 after learning that WILLIAMS had engaged in sewer service.

4 41. As a result of EDP's ratification of WILLIAMS' unlawful conduct, EDP is  
5 liable to Plaintiffs for all damages alleged in this case.

6 NONDELEGABLE DUTY

7 42. California Business and Professions Code § 22356 provides as follows:  
8 A registrant shall be responsible at all times for the good conduct of his or her  
9 employees acting within the course or scope of their employment, and any person  
10 acting as an independent contractor within the course or scope of the agency  
11 relationship with the registrant.

12 43. By enacting this statute, the California legislature sought to implement  
13 specific safeguards for the general public to insure that process server agencies like  
14 EDP faithfully and honestly carry out their responsibilities to the courts of  
15 California and to the general public.

16 44. Plaintiffs are informed, believe and thereon allege, that WILLIAMS was  
17 acting within the course and scope of his agency relationship with EDP at all times  
18 alleged in this Complaint.

19 45. EDP had a nondelegable duty to Plaintiffs to ensure that the state court  
20 process entrusted to it was faithfully served on Plaintiffs and that its agents did not  
21 engage in sewer service.

22 46. Because EDP could not delegate to WILLIAMS its duty to faithfully and  
23 honestly serve Plaintiffs with the state court process entrusted to it, EDP is liable to  
24 Plaintiffs for all damages alleged in this case.

25 FACTUAL ALLEGATIONS

26 47. In or about August, 2004 Plaintiffs are alleged to have incurred a  
27 financial obligation, namely a student loan ("the alleged debt"). The alleged debt  
28 was incurred primarily for personal, family or household purposes and is therefore

1 a “debt” as that term is defined by 15 U.S.C. § 1692a(5) and a “consumer debt” as  
2 that term is defined by Cal. Civil Code § 1788.2(f).

3 48. Plaintiffs are informed and believe, and thereon allege, that sometime  
4 thereafter on a date unknown to Plaintiff, the alleged debt was consigned, sold or  
5 otherwise transferred to another entity.

6 49. Plaintiffs are informed and believe, and thereon allege, that sometime  
7 thereafter on a date unknown to Plaintiff, the alleged debt was assigned to  
8 Patenaude & Felix, APC, for collection from Plaintiff.

9 50. Plaintiffs are informed and believe, and thereon allege that on or about  
10 January 30, 2012, Patenaude & Felix prepared a lawsuit against Plaintiff to be filed  
11 in the Superior Court of San Francisco County, captioned *National Collegiate*  
12 *Student Loan Trust 2004-2 v. Erinn Davis, Arthelle Porter Davis, et al.*, (“the  
13 state court action”), in an attempt to collect the alleged debt.

14 51. Plaintiffs are informed and believe, and thereon allege that Patenaude &  
15 Felix thereafter engaged EDP to file the lawsuit, obtain issuance of a summons, and  
16 then duly and faithfully serve legal process in the state court action upon Plaintiffs,  
17 by delivering to Plaintiffs a copy of the state court Summons and Complaint. EDP  
18 caused the lawsuit to be filed with the Clerk of the Superior Court and obtained  
19 issuance of the summons on April 18, 2012. The state court action was assigned  
20 case number CGC-12-520104.

21 52. Plaintiffs are informed and believe, and thereon allege that on or about  
22 May 2, 2012, EDP composed two documents entitled *Proof of Service of Summons*  
23 in which Defendants represented, under penalty of perjury, that WILLIAMS had  
24 served Plaintiffs with copies of the Summons, Complaint, Declaration re Venue,  
25 Civil Case Cover Sheet and Alternative Dispute Resolution Packet in the state court  
26 action on April 29, 2012, at 2:31 p.m. Thereafter, EDP caused the *Proof of Service*  
27 *of Summons* as to Plaintiff PORTER to be filed with the Clerk of the Superior Court  
28 in the state court action on May 9, 2012, and as to Plaintiff DAVIS on May 16, 2012.

1 True and correct copies of the *Proofs of Service of Summons* filed in the state court  
2 action are attached hereto, marked as Exhibits 1 and 2 and by this reference are  
3 incorporated herein.

4 53. Despite the representations made by Defendants in their *Proofs of*  
5 *Service of Summons* (Exhibits 1 & 2), Plaintiff PORTER was not served personally,  
6 or otherwise, and Plaintiff DAVIS was not served by substitute service, with copies  
7 of the Summons and Complaint in the state court action. The *Proofs of Service of*  
8 *Summons* document composed by EDP appear to be facially valid. Indeed, EDP's  
9 very purpose is to pass facial review, hoping the fraud goes undetected until the  
10 debtor discovers the fraudulent proof of service after a default judgment has been  
11 entered, as occurred in this case.

12 54. Plaintiffs are informed and believe, and thereon allege that the address  
13 used on the *Proofs of Service of Summons* (Exhibits 1 & 2), (i.e., 16700 Valley View  
14 Avenue, Ste 440, La Mirada, CA 90638) is the business address of EDP and not the  
15 address of WILLIAMS as represented in the document.

16 55. Plaintiffs are informed and believe, and thereon allege that the telephone  
17 number used on the *Proofs of Service of Summons* (Exhibits 1 & 2), (i.e.,  
18 (800)225-5337) is the business telephone number of EDP and not the telephone  
19 number of WILLIAMS as represented in the document.

20 56. Plaintiffs are informed and believe, and thereon allege that the *Proofs of*  
21 *Service of Summons* (Exhibits 1 & 2) bear the facsimile signature of WILLIAMS.  
22 Plaintiffs are informed and believe, and thereon allege that WILLIAMS provided  
23 EDP with his facsimile signature for use on process server returns and that EDP  
24 used WILLIAMS' facsimile signature to produce the *Proofs of Service of Summons*  
25 (Exhibits 1 & 2) in this case.

26 57. Plaintiffs are informed and believe, and thereon allege that Defendants,  
27 acting together, knowingly and willfully composed and sold Patenaude & Felix the  
28



1 *Proofs of Service of Summons* (Exhibits 1 & 2) containing false statements  
2 regarding their service of court process in the state court action.

3 58. According to the *Proofs of Service of Summons* (Exhibits 1 & 2),  
4 Defendants, acting together, sold the process server returns to Patenaude & Felix  
5 for \$62.50 each.

6 59. On April 2, 2013, about eleven months after Defendants composed and  
7 filed their false *Proofs of Service of Summons* (Exhibits 1 & 2) in the state court  
8 action, Patenaude & Felix requested and was granted a Default Judgment by the  
9 Clerk of the Superior Court based on Defendants' false process server returns.

10 60. Sometime in July 2013, Plaintiff DAVIS discovered that a lawsuit had  
11 been filed against her and that a Judgment had been entered because Patenaude &  
12 Felix was attempting to garnish DAVIS' wages on behalf of the judgment creditor  
13 in the state court action. Upon learning of the state court action, DAVIS filed a  
14 Claim of Exemption in an attempt to prevent the wage garnishment. However,  
15 DAVIS was not able to set aside the default until she hired the undersigned counsel  
16 in February 2014.

17 61. After hiring counsel and reviewing the documents in the state court file,  
18 Plaintiff DAVIS first learned that Defendants had composed and filed their false  
19 *Proofs of Service of Summons* (Exhibits 1 & 2). During February 2014, Plaintiff  
20 DAVIS first discovered that Defendants' *Proofs of Service of Summons* (Exhibits 1  
21 & 2) represented that she had been served with a copy of the state court Summons,  
22 Complaint, Declaration of Venue, Civil Case Cover Sheet and Alternative Dispute  
23 Resolution Packet by leaving a copy with Plaintiff PORTER at 155 Gardenside  
24 Drive, Apartment 21, San Francisco, California on April 29, 2012. It was also  
25 during February 2014 that Plaintiffs DAVIS and PORTER learned that PORTER  
26 was named as a defendant in the state court lawsuit, and that there was a judgment  
27 against PORTER in the state court lawsuit.  
28

1           62. In fact, Plaintiff PORTER was not served personally or otherwise with  
2 the summons and complaint. PORTER never lived at 155 Gardenside Drive in San  
3 Francisco and was not present there on that date. Furthermore, the *Proof of*  
4 *Service of Summons* (Exhibit 2) as to substitute service of DAVIS describes the  
5 person with whom the summons was left as “MALE 48 YRS BLACK HAIR 185 LBS,  
6 5' 10" FATHER...” In fact, on April 29, 2012, PORTER was female, 150 pounds, and  
7 five feet five inches tall. Plaintiff DAVIS was never served by substitute service as  
8 no copies of the summons and complaint were left with PORTER and 155  
9 Gardenside Drive was not DAVIS’ address at that time.

10           63. On or about February 18, 2014, Plaintiffs filed a motion to vacate the  
11 Entry of Default and Default Judgment that had been entered against Plaintiffs in  
12 the state court action based on Defendants’ false *Proofs of Service of Summons*  
13 (Exhibits 1 & 2). The motion was unopposed and the Default Judgment was set  
14 aside and vacated on March 20, 2014.

### 15                           **EDP’s Business Practices**

16           64. Plaintiffs are informed and believe, and thereon allege that EDP  
17 composes and sells process server returns, like the *Proofs of Service of Summons*  
18 (Exhibits 1 & 2) in this case, on a flat rate or fixed fee basis. Plaintiffs are informed  
19 and believe, and thereon allege that EDP pays its process servers using a similar  
20 flat rate or fixed fee compensation system. Plaintiffs are informed and believe, and  
21 thereon allege that EDP will pay WILLIAMS and other process servers only for  
22 service attempts that are reported as completed and will pay substantially less or  
23 nothing at all for service that is not reported as completed. Because EDP’s process  
24 servers are not paid for unsuccessful service attempts, process servers like  
25 WILLIAMS have a strong financial incentive to falsify process server returns.  
26 Plaintiffs are informed and believe, and thereon allege that EDP knowingly  
27 promotes the use of false process server returns through its flat rate or fixed fee  
28 compensation system.

1           65. Plaintiffs are informed and believe, and thereon allege that EDP charges  
2 substantially less than the published rates of many of its San Francisco Bay Area  
3 competitors for process server services. Plaintiffs are informed and believe, and  
4 thereon allege that EDP's lower market rates can only be achieved by use of a flat  
5 rate or fixed fee compensation system for its process servers. Such business  
6 practices create a race to the bottom by forcing competitors to lower the fees paid  
7 to their more scrupulous process servers or go out of business. The result of these  
8 anti-competitive business practices is more false process server returns from all  
9 process server agencies. Plaintiffs are informed and believe, and thereon allege that  
10 EDP effectively sells sewer service, by underbidding the true costs of proper  
11 service.

12           66. Debt collection law firms and debt buyers plainly benefit from the sewer  
13 service provided by unscrupulous process servers like the Defendants in this case.  
14 By not serving consumer debt defendants, debt collection firms and debt buyers  
15 are able to generate thousands of judgments by default on cases where they could  
16 never prevail on the merits. Once default judgments are fraudulently obtained,  
17 they are used to levy consumer's bank accounts, garnish their wages, seize their  
18 property, damage their credit reports, and/or pressure them into unaffordable  
19 payment plans.

20           67. Plaintiffs are informed and believe, and thereon allege that Defendants  
21 violate California Code of Civil Procedure § 417.10 in composing and selling  
22 perjured *Proofs of Service of Summons* such as Exhibits 1 & 2.

23           68. Pursuant to California Evidence Code § 647, the return of a registered  
24 process server "establishes a presumption, affecting the burden of producing  
25 evidence, of the facts stated in the return." The effect of a presumption affecting the  
26 burden of producing evidence is to require the trier of fact to assume the existence  
27 of the presumed fact unless and until evidence is introduced which would support  
28 a finding of its nonexistence. Defendants' composition and sale of perjured

process server returns, like the *Proofs of Service of Summons* (Exhibits 1 & 2) in this case, is facilitated and aided by the evidentiary presumption California law provides to faithful process servers. In fact, Defendants in this case are perversely protected by and rely on the extreme procedural and evidentiary burdens that are imposed on litigants who are the victims of sewer service. Such litigants are faced with the nearly impossible burden of providing strong and convincing evidence of non-service. Because a mere allegation that process was not served, without some additional showing of evidence is insufficient to refute the validity of an affidavit of service, victims of sewer service, like Plaintiff in this case, are ultimately required to prove a negative; they must prove that an event never occurred and their own sworn testimony of non-service is often not enough to meet their evidentiary burden. Because of this procedural and evidentiary imbalance, the unlawful conduct alleged in this Complaint is particularly reprehensible.

69. Plaintiffs are informed and believe, and thereon allege, that Defendants have composed and sold false and misleading *Proof of Service of Summons* documents in the form of Exhibit 1 more than 40 times in California in the one year preceding the filing of this Complaint. Therefore, Plaintiff may seek leave to amend this Complaint to add class allegations at a later date.

### CLAIMS

#### FAIR DEBT COLLECTION PRACTICES ACT

70. Plaintiffs bring the first claim for relief against Defendants under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*

71. Plaintiffs incorporate all paragraphs in this Complaint as though fully set forth herein.

72. Plaintiff DAVIS is a "consumer" as that term is defined by the FDCPA, 15 U.S.C. § 1692a(3).

73. Plaintiff PORTER is a "consumer" as that term is defined by the FDCPA, 15 U.S.C. § 1692a(3).

74. Defendant EDP is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692a(6).

75. Defendant EDP is not subject to the exception of 15 U.S.C. § 1692a(6)(D).

76. Defendant WILLIAMS is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692a(6).

77. Defendant WILLIAMS is not subject to the exception of 15 U.S.C. § 1692a(6)(D).

78. The financial obligation sought to be collected from Plaintiffs in the state court action is a debt as that term is defined by the FDCPA, 15 U.S.C. § 1692a(5).

79. Defendants violated the FDCPA, 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(10) and 1692f by making false and misleading representations, and engaging in unfair and abusive practices. Defendants’ violations include, but are not limited to:

a. Manufacturing and selling a fraudulent *Proof of Service of Summons* that falsely stated that Plaintiffs were personally served with a Summons and Complaint when in fact they were not;

b. Manufacturing and selling fraudulent, deceptive, and misleading statements and documents which are used in the collection of consumer debts;

c. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to deceive;

d. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to misrepresent the true nature of the services being provided;

e. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to conceal and obscure their joint

responsibility for service of process irregularities pursuant to Cal. Bus. & Prof. Code § 22356; and

f. Aiding, abetting and ratifying the fraud, perjury, breach of official duty and other wrongful acts committed by the other Defendants in this case.

80. Defendants' acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

81. As a result of Defendants' violations of the FDCPA, Plaintiff is entitled to an award of actual damages, statutory damages, costs and reasonable attorneys fees, pursuant to 15 U.S.C. § 1692k.

#### ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

82. Plaintiffs bring the second claim for relief against Defendants under the Rosenthal Fair Debt Collection Practices Act ("RFDCPA"), California Civil Code §§ 1788-1788.33.

83. Plaintiffs incorporate all paragraphs in this Complaint as though fully set forth herein.

84. Plaintiff DAVIS is a "debtor" as that term is defined by the RFDCPA, Cal. Civil Code § 1788.2(h).

85. Plaintiff PORTER is a "debtor" as that term is defined by the RFDCPA, Cal. Civil Code § 1788.2(h).

86. Defendant EDP is a "debt collector" as that term is defined by the RFDCPA, Cal. Civil Code § 1788.2(c).

87. Defendant WILLIAMS is a "debt collector" as that term is defined by the RFDCPA, Cal. Civil Code § 1788.2(c).

88. The financial obligation sought to be collected from Plaintiffs in the state court action is a "consumer debt" as that term is defined by the RFDCPA, Cal. Civil Code § 1788.2(f).

89. Defendants violated the RFDCPA, Cal. Civil Code §§ 1788.13(i), 1788.14(b), 1788.15(a) and 1788.17 by making false and misleading

1 representations, and engaging in unfair and abusive practices. Defendants'  
2 violations include, but are not limited to:

3 a. Manufacturing and selling a fraudulent *Proof of Service of Summons*  
4 that falsely stated that Plaintiffs were personally served with a Summons and  
5 Complaint when in fact they were not;

6 b. Manufacturing and selling fraudulent, deceptive, and misleading  
7 statements and documents which are used in the collection of consumer debts;

8 c. Knowingly and intentionally withholding their true names and process  
9 server registration numbers from process server returns, in violation of Cal. Bus.  
10 & Prof. Code § 22356.5(a), with the intent to deceive;

11 d. Knowingly and intentionally withholding their true names and process  
12 server registration numbers from process server returns, in violation of Cal. Bus.  
13 & Prof. Code § 22356.5(a), with the intent to misrepresent the true nature of the  
14 services being provided;

15 e. Knowingly and intentionally withholding their true names and process  
16 server registration numbers from process server returns, in violation of Cal. Bus.  
17 & Prof. Code § 22356.5(a), with the intent to conceal and obscure their joint  
18 responsibility for service of process irregularities pursuant to Cal. Bus. & Prof.  
19 Code § 22356; and

20 f. Aiding, abetting and ratifying the fraud, perjury, breach of official duty  
21 and other wrongful acts committed by the other Defendants in this case.

22 90. Defendants' acts as described above were done willfully and knowingly  
23 with the purpose of coercing Plaintiffs to pay the alleged debt, within the meaning  
24 of Cal. Civil Code § 1788.30(b).

25 91. As a result of Defendants' violations of the RFDCPA, Plaintiffs are  
26 entitled to an award of actual damages in an amount to be determined at trial,  
27 pursuant to Cal. Civil Code § 1788.30(a).  
28



1           92. As a result of Defendants' willful and knowing violations of the RFDCPA,  
2 Plaintiffs are each entitled to an award of a statutory penalty in an amount not less  
3 than one hundred dollars (\$100) nor greater than one thousand dollars (\$1,000)  
4 against each Defendant, pursuant to Cal. Civil Code § 1788.30(b).

5           93. As a result of Defendants' violations of the RFDCPA, Plaintiffs are each  
6 entitled to an award of statutory damages in an amount not exceeding \$1,000  
7 against each Defendant, pursuant to Cal. Civil Code § 1788.17 (*see* 15 U.S.C. §  
8 1692k(a) (2)(A)).

9           94. As a result of Defendants' violations of the RFDCPA, Plaintiffs are  
10 entitled to an award of reasonable attorney's fees and costs pursuant to Cal. Civil  
11 Code §§ 1788.30(c) and 1788.17 (*see* 15 U.S.C. § 1692k(a)(3)).

12           95. Pursuant to Cal. Civil Code § 1788.32, the remedies provided under the  
13 RFDCPA are intended to be cumulative and in addition to any other procedures,  
14 rights or remedies that the Plaintiff may have under any other provision of law.

15           CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200

16           96. Plaintiffs bring the third claim for relief against Defendants for their  
17 unlawful business acts and/or practices pursuant to California Business and  
18 Professions Code § 17200 *et seq.*, which prohibits all unlawful business acts and/or  
19 practices.

20           97. Plaintiffs incorporate all paragraphs in this Complaint as though fully set  
21 forth herein.

22           98. The unlawful acts and practices of Defendants alleged above constitute  
23 unlawful business acts and/or practices within the meaning of California Business  
24 and Professions Code § 17200 *et seq.*

25           99. By engaging in the above-described acts and practices, Defendants have  
26 committed one or more acts of unfair competition within the meaning of California  
27 Business and Professions Code § 17200 *et seq.*  
28

100. Defendants' unlawful business acts and/or practices as alleged herein have violated numerous laws and/or regulations and said predicate acts are therefore per se violations of § 17200 *et seq.* These predicate unlawful business acts and/or practices include Defendants' composition and sale of perjured *Proofs of Service of Summons* (Exhibits 1 & 2), in violation of California Code of Civil Procedure § 417.10. Additionally, as described in more detail above, Defendants violated 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(10), 1692f and Cal. Civil Code §§ 1788.13(i), 1788.14(b), 1788.15(a) and 1788.17 by:

a. Manufacturing and selling a fraudulent *Proof of Service of Summons* that falsely stated that Plaintiffs were served with a Summons and Complaint when in fact they were not;

b. Manufacturing and selling fraudulent, deceptive, and misleading statements and documents which are used in the collection of consumer debts;

c. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to deceive;

d. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to misrepresent the true nature of the services being provided;

e. Knowingly and intentionally withholding their true names and process server registration numbers from process server returns, in violation of Cal. Bus. & Prof. Code § 22356.5(a), with the intent to conceal and obscure their joint responsibility for service of process irregularities pursuant to Cal. Bus. & Prof. Code § 22356; and

f. Aiding, abetting and ratifying the fraud, perjury, breach of official duty and other wrongful acts committed by the other Defendants in this case.

101. Defendants' misconduct, as alleged herein, gives Defendants an unfair competitive advantage over their competitors.

102. The unlawful acts and practices, as fully described herein, present a continuing threat to members of the public to be misled and/or deceived by Defendants as described herein. Plaintiffs and other members of the general public have no other remedy at law that will prevent Defendants' misconduct, as alleged herein, from occurring and/or reoccurring in the future.

103. As a direct and proximate result of Defendants' unlawful conduct alleged herein, Plaintiffs have sustained actual pecuniary loss in that they were required to obtain a copy of the state court's file and pay an attorney to have the default judgment set aside and vacated. Plaintiffs are direct victims of Defendants' unlawful conduct, as alleged herein, have suffered an injury in fact and have lost money or property as a result of Defendants' violations of the FDCPA, the RFDCPA, and Defendants' unfair competition.

104. Plaintiffs are entitled to declaratory relief and a permanent injunction enjoining Defendants from their unlawful activity.

#### REQUEST FOR RELIEF

Plaintiffs request that this Court:

- a) Assume jurisdiction in this proceeding;
- b) Declare that Defendants violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(10) and 1692f;
- c) Declare that Defendants violated the Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code §§ 1788.13(i), 1788.14(b), 1788.15(a) and 1788.17;
- d) Award each Plaintiff actual damages in an amount to be determined at trial, pursuant to 15 U.S.C. § 1692k(a)(1) and Cal. Civil Code § 1788.30(a);
- e) Award each Plaintiff statutory damages in an amount not exceeding \$1,000 each, pursuant to 15 U.S.C. § 1692k(a)(2)(A);

1 f) Award each Plaintiff a statutory penalty in an amount not less than \$100  
2 nor greater than \$1,000 in favor of each Plaintiff, and against each Defendant,  
3 pursuant to Cal. Civil Code § 1788.30(b);

4 g) Award each Plaintiff statutory damages in an amount not exceeding  
5 \$1,000 per plaintiff, against each Defendant, pursuant to Cal. Civil Code § 1788.17  
6 (*see* 15 U.S.C. § 1692k(a)(2)(A));

7 h) Enter a mandatory injunction requiring Defendants to permanently cease  
8 all unlawful practices complained of in this action and impose affirmative  
9 injunctive relief requiring Defendants, their partners, agents, employees and all  
10 persons acting in concert or participating with them, to take affirmative action to  
11 immediately implement policies designed to ensure: (i) that no process server  
12 returns contain false information, (ii) that all Defendants' process server returns  
13 comply fully with Cal. Bus. & Prof. Code § 22356.5(a), (iii) that a monitoring  
14 system for process servers be implemented and maintained, (iv) training and  
15 testing all of Defendants' employees and agents regarding applicable service of  
16 process laws, (v) a reporting system be made available to Defendants' customers  
17 for reporting suspected service of process irregularities, and (vi) the institution of a  
18 disciplinary system that will investigate and immediately discipline, up to and  
19 including termination, any employee or agent that has been found to engage in  
20 sewer service;

21 i) Award Plaintiffs the costs of this action and reasonable attorneys fees  
22 pursuant to 15 U.S.C. § 1692k(a)(3) and Cal. Civil Code §§ 1021.5, 1788.17 (*see* 15  
23 U.S.C. § 1692k(a)(3)) and 1788.30(c); and

24 j) Award Plaintiffs such other and further relief as may be just and proper.  
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DATED: April 27, 2014

/s/ James A. Michel  
JAMES A. MICHEL  
State Bar No. 184730  
2912 Diamond St #373  
San Francisco CA 94131  
Tel. # 415/ 239-4949  
Email: attyjmichel@gmail.com  
  
Attorney for Plaintiffs

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiffs ERINN DAVIS and ARTHELLE PORTER hereby demand a trial by jury of all triable issues of fact in the above-captioned case.

DATED: April 27, 2014

/s/ James A. Michel  
JAMES A. MICHEL

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# Exhibit 1



<p>LAW OFFICES OF PATENAUDE &amp; FELIX, A.P.C.  Raymond A. Patenaude, Esq. (128855)/ Victor S. Patenaude, Esq. (#216342)  Michael R. Boulanger, Esq. (#226294)/ Michael Kahn (#236898)  4545 Murphy Canyon Road, 3<sup>rd</sup> Floor  San Diego, CA 92123  Telephone No.: (858)244-7600 Fax No.: (858) 836-0318  ATTORNEY FOR: PLAINTIFF</p>		<p><b>FILED</b>  <b>SUPERIOR COURT</b>  <b>COUNTY OF SAN FRANCISCO</b>  <b>2012 MAY -9 PM 12:21</b>  <b>CLERK OF THE COURT</b>  BY: _____  DEPUTY CLERK</p>
<p>Court: SUPERIOR COURT COUNTY OF SAN FRANCISCO, SAN FRANCISCO  COURTHOUSE  400 McAllister St., 4th Floor, San Francisco, CA 94102</p>		
<p>Case Title: NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-2, a Delaware  Statutory Trust(s) V ARTHELLE PORTER DAVIS</p>		<p>Case No.: CGC-12-520104  File No.: 11-65399</p>
<p>Hearing Date: _____ Time: _____ Ref.: _____</p>		
<ol style="list-style-type: none"> <li>1. At the time of service I was at least 18 years of age and not a party to this action.</li> <li>2. I served copies of the:  SUMMONS AND COMPLAINT, CIVIL CASE COVER SHEET, DECLARATION RE VENUE, ALTERNATIVE DISPUTE  RESOLUTION NOTICE AND INFORMATION PACKAGE, CASE MANAGEMENT STATEMENT, , ,</li> <li>3. a. Party Served: ARTHELLE PORTER DAVIS    b. Person Served Party in item 3a</li> <li>4. Address where party was served: 155 GARDENSIDE DR APT 21  SAN FRANCISCO, CA 94131</li> <li>5. I served the Party  a. By personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive  service of process for the party.  (1) On 04/29/12 at 02:31 PM  (2) HOME</li> <li>6. The "Notice to the Person Served" (on the summons) was completed as follows:  a. as an <b>Individual Defendant</b></li> <li>7. Person who served papers  J. WILLIAMS  16700 VALLEY VIEW AVENUE, STE 280  LA MIRADA, CA 90638  (800)225-5337    d. The fee for service was : \$62.50  e. I am: Registered California Process Server:  (ii) Registration No.: 1197  (iii) County: ALAMEDA</li> <li>8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</li> </ol>		
<p>Date <u>May 2, 2012</u></p>		<p>Signature <u><i>J. Williams</i></u></p>



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# Exhibit 2

POS-010

LAW OFFICES OF PATENAUDE & FELIX, A.P.C. Raymond A. Patenaude, Esq. (128855)/ Victor S. Patenaude, Esq. (#216342) Michael R. Boulanger, Esq. (#226294)/ Michael Kahn (#236898) 4545 Murphy Canyon Road, 3 <sup>rd</sup> Floor San Diego, CA 92123 Telephone No.: (858)244-7600 Fax No.: (858) 836-0318 ATTORNEY FOR: PLAINTIFF		<div style="text-align: right;">FILED</div> <div style="text-align: center;">             SUPERIOR COURT              COUNTY OF SAN FRANCISCO              2012 MAY 16 PM 12:21              CLERK OF THE COURT              BY:  </div>
Court: SUPERIOR COURT COUNTY OF SAN FRANCISCO, SAN FRANCISCO COURTHOUSE 400 McAllister St., 4th Floor, San Francisco, CA 94102		
Case Title: NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-2, a Delaware Statutory Trust(s) V ERINN DAVIS		Case No.: CGC-12-520104  File No.: 11-65399
Hearing Date:	Time:	Ref.:
1. At the time of service I was at least 18 years of age and not a party to this action. 2. I served copies of the: SUMMONS AND COMPLAINT, CIVIL CASE COVER SHEET, DECLARATION RE VENUE, ALTERNATIVE DISPUTE RESOLUTION NOTICE AND INFORMATION PACKAGE, CASE MANAGEMENT STATEMENT, , , 3. a. Party Served: ERINN DAVIS b. Person Served ARTHELLE "DOE" 4. Address where party was served: 155 GARDENSIDE DR APT 21 SAN FRANCISCO, CA 94131 5. I served the Party b. by substituted service. On (date) 04/29/12 at (time) 02:31 PM I left the documents listed in item 2 with or in the presence of : ARTHELLE "DOE" MALE 48 YRS BLACK HAIR 185 LBS 5'10" FATHER BROWN EYES AFRO-AMER (2) (Home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers. (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents listed in item 2 to the person to be served at the place where the copies were left (Code Civ. Proc., 415.20). I mailed the documents on (1) On (date): (2) From (city): or <input checked="" type="checkbox"/> a declaration of mailing is attached 6. The "Notice to the Person Served" (on the summons) was completed as follows: a. as an Individual Defendant 7. Person who served papers J. WILLIAMS 16700 VALLEY VIEW AVENUE, STE 280 LA MIRADA, CA 90638 (800)225-5337 d. The fee for service was : \$62.50 e. I am: Registered California Process Server: (ii) Registration No.: 1197 (iii) County: ALAMEDA 8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		
Date May 2, 2012		Signature 

LAW OFFICES OF PATENAUDE & FELIX, A.P.C.

Raymond A. Patenaude, Esq. (128855)/ Victor S. Patenaude, Esq. (#216342)

Michael R. Boulanger, Esq. (#226294)/ Michael Kahn (#236898)

4545 Murphy Canyon Road, 3<sup>rd</sup> Floor

San Diego, CA 92123

Telephone No.: (858)244-7600

ATTORNEY FOR: PLAINTIFF

DECLARATION SUPERIOR COURT COUNTY OF SAN FRANCISCO, SAN FRANCISCO COURTHOUSE  
RE DILIGENCE NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-2, a Delaware Statutory  
Trust(s) V ERINN DAVIS

CASE NO.: CGC-12-520104

FILE NO.: 11-65399

On 04/19/2012, I received the following documents:

SUMMONS AND COMPLAINT, CIVIL CASE COVER SHEET, DECLARATION RE VENUE, ALTERNATIVE DISPUTE RESOLUTION NOTICE AND  
INFORMATION PACKAGE, CASE MANAGEMENT STATEMENT, , ,

For service on ERINN DAVIS

I am and was on the dates herein mentioned, over the age of eighteen years and not a party to the action. After due search, careful inquiry  
and diligent attempts at the dwelling house or usual place of abode and/ or usual place of mailing. I have been unable to make personal  
service of aforementioned documents (Pursuant to CCP 415.20).

Date	Time	Address	Comment
04/26/12	02:09 PM	155 GARDENSIDE DR APT 21 SAN FRANCISCO CA 94131	NO RESPONSE
04/27/12	10:52 PM	155 GARDENSIDE DR APT 21 SAN FRANCISCO CA 94131	NO RESPONSE
04/28/12	06:00 AM	155 GARDENSIDE DR APT 21 SAN FRANCISCO CA 94131	NO RESPONSE
04/29/12	02:31 PM	155 GARDENSIDE DR APT 21 SAN FRANCISCO CA 94131	SUBJECT NOT IN; SUBSTITUTED SERVICE MADE AT THIS TIME

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date May 2, 2012

Signature:

  
J. WILLIAMS

DECLARATION OF DUE DILIGENCE

PLAINTIFF/PETITIONER:	NATIONAL COLLEGIATE STUDENT LOAN TRUST 2004-2, A DELAWARE STATUTORY TRUST	CASE NUMBER:
DEFENDANT/RESPONDENT:	ERINN DAVIS	CGC-12-520104

## PROOF OF SERVICE

☒ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and not a party to this action.
2. My residence or business is (specify): (BUSINESS) 16700 Valley View Ave., Suite 440  
La Mirada, CA 90638  
(800) 225-5337
3. I mailed or personally delivered a copy of the *SUMMONS AND COMPLAINT; CIVIL CASE COVER SHEET; DECLARATION RE VENUE; ALTERNATIVE DISPUTE RESOLUTION NOTICE AND INFORMATION PACKAGE; CASE MANAGEMENT STATEMENT* as follows (complete either a or b):
  - a. ☒ **Mail.** I am a resident of or employed in the county where the mailing occurred.
    - (1) I enclosed a copy in an envelope, to be sent by FIRST CLASS MAIL, AND
      - (a) ☐ deposited the sealed envelope with the United States Postal Service with the postage fully prepaid.
      - (b) ☒ placed the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with First-class, postage prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served: ERINN DAVIS
      - (b) Address on envelope: 155 GARDENSIDE DR APT 21  
SAN FRANCISCO, CA 94131
      - (c) Date mailed: 04/30/2012
      - (d) Place of mailing (city and state): La Mirada, CA 90638
  - b. ☐ **Personal delivery** I personally delivered a copy as follows:
    - (1) Name of person served:
    - (2) Address when delivered:
    - (3) Date delivered:
    - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 04/30/2012

Vanessa Nuno

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)